

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The 112 Rejections have been withdrawn because of the amendments to the claims.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Eggers et al. (USPN 6,045,532).
3. Eggers et al. a neurosurgical catheter with an external diameter not more than 0.5mm (Column 24, lines 13-67) which represents the working end (464) of the catheter body (464) as shown in figure 12B, thus making the catheter end have an outer diameter of not more than 0.5 mm (as disclosed in column 24, lines 13-30). The examiner interprets the hub to be (614) since this element represent a fitting and has a stop surface with the catheter (460).
4. Claims 1-12, 16, and 26 - 28 are rejected under 35 U.S.C. 102(e) as being anticipated Konya et al. (USPN 6,517,550).

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5. Konya et al. discloses a neurosurgical catheter (20) with an external diameter not more than 0.5mm (1.5 French – Column 13, line 55-56) connected to a hub (24) at the stop surface. Konya et al. also discloses connector tube (27).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-14, 16-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parmer et al. (USPN 6,902,569), and further in view of Noone et al. (USPN 6,591,472).

8. Parmer et al. discloses a neurosurgical catheter with guide tube (240) that has a head with flanges that have countersunk holes that screw into the skull (210+230 – see figure 2) and a surgical instrument or catheter (229) with an external diameter that ranges from 3 to 12 French. Parmer uses catheter and surgical instrument interchangeable throughout the specification (see drawing description figure 5d, and column 15, line 7). Parmer et al. also discloses a hub (220) with a stop surface and a method of using the device for neural treatment, but Parmer et al. fails to disclose the outer diameter being not more than 0.5 mm.

9. Noone et al. discloses in the background that it is well known and established that neurosurgical catheter have small outer diameters ranging from 1 to 3 French (Column 3, line 9-17).

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10. At the time of the invention it would have been obvious for one of ordinary skill in the art to combine the device of Parmer et al. with the teachings of Noone et al. because Noone et al. shows the level of skill in the medical catheter art and that it has been established and well known to use catheters with an outer diameter of 1 to 3 French when dealing with neurological catheters and treatments. Therefore it would have been obvious and only take routine skill in the art to modify the size of the surgical instrument or catheter of Parmer et al. to have an outer diameter of not more than 0.5 mm.

11. With regards to claims 24 and 25, the examiner would like to note that is well known and obvious to make a kit in the medical art due to the fact that the devices need to be sterile, therefore the it would have been obvious for one of ordinary skill and only take routine skill in the art to make a kit of the guide tube, catheter and a guide wire of Parmer et al. as well as labeling and packing the elements together.

Response to Arguments

12. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

13. The 102 Rejection in view of Gill (USPN 6,609,020) has been withdrawn because Gill fails to disclose a diameter smaller than 1mm for the tube.

14. The 102 Rejection in view of Pianca et al. (USPN 7,033,326) has been withdrawn because Pianca et al. fails to disclose a hub connected to the tube at the stop.

15. The 103 Rejection in view of Gill and Eggers et al. and Brimhall has been withdrawn because of the declaration filed 10/14/09 and the newly found art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW F. DESANTO whose telephone number is (571)272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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